PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: COLLIS, et al.

Examiner:

Morris, Patricia L.

Art Unit:

1625

Application No.: 09/871,564

May 31, 2001

Title:

Filed:

HETEROARYL-CYCLIC ACETALS

Combined Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance (37 C.F.R. § 1.705) and Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 for the Adjustment (37 C.F.R. § 1.705(b)(2)(i) and (ii))

Mail Stop Issue Fee Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Applicants request reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on August 13, 2008.

Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis Under §1.702 For the Adjustment.

Any patent granted on this application is not subject to a terminal disclaimer.

The patent term adjustment shown on the Notice of Allowance is 486 days. It is respectfully suggested that the correct patent term adjustment under §1.702 is 612 days.

Statement of the Correct Patent Term Adjustment

This statement is being submitted in support of the "Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance" to which this statement is made part.

The basis on which applicant seeks adjustment is as follows:

- According to PAIR applicants failed to timely respond to the April 28, 2005 Restriction Requirement. According to PAIR applicants responded to the April 28, 2005 Restriction Requirement on December 1, 2005. Applicants contend that they responded to the April 28, 2005 Restriction Requirement on August 26, 2005.
- 2. On August 26, 2005 applicants submitted via facsimile, a transmittal cover sheet, a 3 month extension of time and a 1 page reply to the April 28, 2005 Restriction Requirement (Exhibit A).
- 3. On August 26, 2005 applicants received an Auto-Reply Facsimile Transmission confirming receipt by the USPTO on August 26, 2005 at 11:33:30 AM (Exhibit B).
- 4. On December 1, 2005 Examiner Morris of the USPTO phoned Paul Darkes, attorney of record at the time of filing, to inquire as to whether we had responded to the April 28, 2005 Restriction Requirement.. Because Mr. Darkes was no longer responsible for the prosecution of this application, he informed Robin Inman of our docketing group. Ms. Inman returned Examiner Morris' phone call and informed her that a response had been faxed to the USPTO on August 26, 2005 and that we had received an Auto-Reply Facsimile Transmission confirming receipt of our response on August 26, 2005 at 11:33:30 AM.
- 5. On December 1, 2005, James Bolcsak, the attorney of record at that time, prepared a written reply to Examiner Morris' December 1, 2005 phone call (Exhibit C).
- 6. The December 1, 2005 Communication in response to Examiner Morris' phone call was entered into PAIR as the date of our reply to the April 28, 2005 Restriction Requirement. The August 26, 2005 reply was never properly entered into PAIR.
- 7. As a result of the above, applicants respectfully disagree with the USPTO's determination of 126 days of delay on applicants' part for failure to timely respond to the April 28, 2005 Restriction Requirement. Applicant's contend that they timely responded to the April 28, 2005 Restriction Requirement on August 26, 2005 at 11:33:30 AM.
- 8. Applicants agree with the USPTO's determination of 1002 days of delay on the part of the USPTO.
- 9. Applicants further agree with the 390 remaining days of delay on Applicants' part.

Applicants therefore conclude that they are entitled to an Adjustment of Patent Term under 35 USC 154(b) of 612 days.

The Commissioner is authorized to charge the \$200.00 fee set forth in §1.18(e) required by 37 C.F.R. §1.705(b)(1) to Deposit Account No. 18-1982. The Commissioner is also authorized to charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

October 24, 2008 Paymond & B

Raymond S. Parker, Reg. No. 34,893

Attorney/Agent for Applicant

sanofi-aventis U.S. LLC Patent Department Route #202-206 / P.O. Box 6800 Bridgewater, New Jersey 08807-0800

Telephone: 908-231-5674 Telefax: 908-231-2626

Docket No. USCA2295 US CNT

EXHIBIT A

	* * * COMMUNICAL	ON RESULT REPORT (AUG. 26. 2005 11:43AM) * * ±	
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Firm Name	AVENTIS PHARMACEUTIC	CALS INC.			
Signature	Jame.	W. Black			
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Date	August 26, 2005	F	Reg. No. 39912	*	
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the date shown b	pelow: (USPTO FAX NO. <u>571-27</u>		ing Transmitted: , 3)		-

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentially is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual pass. Any comments on the amount of time you require to complete this form endfor suggestations for reducing this burden, should be sent to the Chief Information. Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

James W. Bolesak

Typed or printed name

Date

August 26, 2005

PTO/SB/21 (09-04)

Approved for use through 07/31/2006, OMB 0651-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. **Application Number** 09/871,564 **TRANSMITTAL** Filing Date May 31, 2001 **FORM** First Named Inventor COLLIS Art Unit 1625 Examiner Name MORRIS, Patricia L. (to be used for all correspondence after initial filing) Attorney Docket Number USCA2295 US CNT Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC Fee Transmittal Form Drawing(s) Appeal Communication to Board Licensing-related Papers Fee Attached of Appeals and Interferences Appeal Communication to TC Petition Amendment/Reply (Appeal Notice, Brief, Reply Brief) Petition to Convert to a Proprietary Information After Final Provisional Application Power of Attorney, Revocation Status Letter Affidavits/declaration(s) Change of Correspondence Address Other Enclosure(s) (please Identify Terminal Disclaimer **Extension of Time Request** below): Request for Refund **Express Abandonment Request** CD, Number of CD(s) Information Disclosure Statement Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name AVENTIS PHARMACEUTICALS INC. Signature Printed name James W BOLCSAK Date Reg. No. August 26, 2005 39912 CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: (USPTO FAX NO. 571-273-8300 Total No. of Pages Transmitted: Signature Date Typed or printed name August 26, 2005 W. Bolesak

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER	Docket Number (Optional)					
FY 2005		USCA2295 US CNT				
(Fees pursuant to the Consolidated Appropriations Act,	2005 (H.R. 4818).)	Filed Moved 2001				
Application Number 09/871,584		Filed May 31, 2001				
For Chemical Compounds Heteroary 1-Cyclic Aces	tals					
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Art Unit 1625		Examiner MORRIS,	Patricia L.			
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.						
The requested extension and fee are as follows (check	time period desired a	ind enter the appropriate	fee below):			
One month (37 CFR 1.17(a)(1))	<u>Fee</u> \$120	Small Entity Fee \$60	\$			
Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$			
Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ 1,020.00			
Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$			
Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	S			
Applicant claims small entity status. See 37 CFR 1.27. A check in the amount of the fee is enclosed.						
Payment by credit card. Form PTO -2038 is at						
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l am the applicant/inventor.		•				
assignee of record of the entire Statement under 37 CFR 3.						
attorney or agent of record. Re	gistration Number	39912				
attorney or agent under 37 CFF Registration number if acting under 3						
- Jenne W. Com		August	26, 2005			
Signature			ate			
James W. BOLCSAK		908-23	1-5922			
Typed or printed name		Telephon	e Number			
NOTE: Signatures of all the inventors or assignees of record of the ent	lire interest or their represen	tative(s) are required. Submit m	oultiple forms if more than one			
Total of forms are submitted.						

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of COLLIS et al.

Examiner:

Morris, Patricia

Application No.: 09/871,564

Art Unit:

1625

Filed:

05/31/2001

TELEFAX CERTIFICATE

Title:

Heteroaryl-Cyclic Acetals

I hereby certify that this correspondence is being transmitted via facsimile to the Commissioner for Patents, Alexandria, VA 22313, at 571-273-8300 on

August 26, 2005

Date of Transmission

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Mail Stop TC1600 Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

In response to the Restriction/Election requirement imposed by the Examiner in the above-referenced application (Office Communication mailed April 28, 2005), Applicants hereby elect Group I for further prosecution.

Group I includes, as determined by the Examiner, the subject matter of claims 1-15, drawn to compounds, classified in classes 540, 544, 546, 548 and 549, in various subclasses. Furthermore, Applicants elect for examination purposes the specie of Example 1 as requested by the Examiner. This compound is 4-[5-(5,5-dimethyl-[1,3]dioxan-2-yl)-2-(4-fluoro-phenyl)-2H-pyrazol-3-yl]-pyridine.

Upon allowance of the above-elected subject matter, the claims will be amended to reflect such election. Applicants reserve the right to pursue the remaining non-elected subject matter in one or more timely filed divisional applications.

Respectfully submitted,

ames W. Bolcsak, Reg. No.: 39,912

Attorney/Agent for Applicant

Aventis Pharmaceuticals Inc. Patent Department Route #202-206 / P.O. Box 6800 Bridgewater, NJ 08807-0800 Telephone (908) 231-5922 Telefax (908) 231-2626

Aventis Docket No. CA2295 USCNT

EXHIBIT B



Auto-Reply Facsimile Transmission



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Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

are required to respond to a collection of information unless it displays a valid OMB control number. Under the Paperwork Reduction Act of 1995, no persons Application Number 09/871,564 Filing Date TRANSMITTAL May 31, 2001 First Named Inventor **FORM** COLLIS Art Unit 1625 **Examiner Name** MORRIS, Patricia L. (to be used for all correspondence after initial filing) Attorney Docket Number USCA2295 US CNT Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC Fee Transmittal Form Drawing(s) Appeal Communication to Board Licensing-related Papers Fee Attached of Appeals and Interferences Appeal Communication to TC Petition (Appeal Notice, Brief, Reply Brief) Amendment/Reply Petition to Convert to a Proprietary Information After Final Provisional Application Power of Attorney, Revocation Status Letter Affidavits/declaration(s) Change of Correspondence Address Other Enclosure(s) (please Identify Terminal Disclaimer **Extension of Time Request** below): 1. Communication Request for Refund Express Abandonment Request 2. Copy of 8-26-05 response and EOT CD, Number of CD(s) Information Disclosure Statement 3. Copy Of Auto-Reply to Item 2. Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name AVENTIS PHARMACEUTICALS INC. Signature Printed name fames W. BOLCSAK Date Reg. No. 39912 December 01, 2005 CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: (USPTO FAX NO. 571-273-8300 ; Total No. of Pages Transmitted: 7 Signature Date December 01, 2005 Typed or printed name Paul Irvine

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application, Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Collis, et al.

Examiner:

MORRIS, Patricia L.

Application No.: 09/871,564

Art Unit:

1625

Filed:

May 31, 2001

TELEFAX CERTIFICATE

Title:

HETEROARYL-CYCLIC ACETALS

I hereby certify that this correspondence is being transmitted via facsimile to the Commissioner for Patents, Alexandria, VA 22313, on

December 1, 2005

COMMUNICATION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

This Communication is in response to a phone call received today from Examiner Morris to Paul Darkes. Examiner Morris's call was to inquire as to whether we had responded to the April 28, 2005 Restriction Requirement. Because Mr. Darkes was no longer responsible for the prosecution of this application, he informed Robin Inman, Sr. Paralegal, US Docketing Formalities. Ms. Inman returned Examiner Morris's call and informed her that a response had been faxed to the USPTO on August 26, 2005 and that we had received the Auto-Reply Facsimile Transmission confirming receipt of the response on August 26, 2005. Examiner Morris requested that we resubmit a copy of the August 26, 2005 response. Applicants respectfully resubmit a copy of their August 26, 2005 response to the April 28, 2005 Restriction Requirement which included a 3 month extension of time.

Applicants believe that no additional changes should be incurred; however, the Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Account No. 18-1982.

Respectfully submitted,

James W. Bolcsak, Reg. No. 39,912

Attorney/Agent for Applicant

Aventis Pharmaceuticals Inc. (a member of the sanofi-aventis group) U.S. Patent Operations Route #202-206 / P.O. Box 6800 Bridgewater, New Jersey 08807-0800 Telephone (908) 231-5922 Telefax (908) 231-2626

Aventis Docket No. USCA2295 US NP



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James W. Bolesak

Typed or printed name

Date

August 26, 2005

PTC/SS/21 (09-04)
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	Application Number	09/871,564				
TRANSMITTAL	Filing Date	May 31, 2001				
FORM	First Named Inventor	COLLIS				
	Art Unit	1625				
(to be used for all correspondence after init	Examiner Name	MORRIS, Patric	ia L.			
	Attorney Docket Number	USCA2295 US		,		
Total Number of Pages in This Submission						
	ENCLOSURES (Check all)	that apply)				
Fee Transmittal Form Fee Attached Amendment/Reply After Final Affidavits/declaration(s) Extension of Time Request Express Abandonment Request Information Disclosure Statement Certified Copy of Priority Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53	Landscape Table on CD	ddress	Appeal Communi of Appeals and Ir Appeal Communi (Appeal Notice, Br Proprietary Inform Status Letter	terferences cation to TC lef, Reply Brief)		
	ATURE OF APPLICANT, ATTOR	RNEY, OR AGE	ENT			
Firm Name AVENTIS PHARMA	CEUTICALS INC.					
Signature	m W. Blead					
Printed name James W BOLCSA						
Date August 26, 2005		Reg. No. 39912	2			
CERTIFICATE OF TRANSMISSION/MAILING						
I hereby certify that this correspondence is sufficient postage as first class mail in an the date shown below. (USPTO FAX NO.	s being facsimile transmitted to the USPTC envelope addressed to: Commissioner for 571-273-8300 ; Total No. of Pag	Patents, P.O. Box	the United States 1450, Alexandria,	Postal Service with VA 22313-1450 on		
Typed or printed name	Jan W. Bolcs at	k	Date August	26, 2005		

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)	Docket Number (Optional)					
FY 2005 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	USCA2295 US CNT					
Application Number 09/871,564	Filed May 31, 2001					
For Chemical Compounds Heteroary 1 - Cyclic Acetal						
Art Unit 1625	Examiner MORRIS, Patricia L.					
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application. The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):						
Fee Small Entity Fee ☐ One month (37 CFR 1.17(a)(1)) \$120 \$60 \$ ☐ Two months (37 CFR 1.17(a)(2)) \$450 \$225 \$ ☐ Three months (37 CFR 1.17(a)(3)) \$1020 \$510 \$ 1,020.00 ☐ Four months (37 CFR 1.17(a)(4)) \$1590 \$795 \$ ☐ Five months (37 CFR 1.17(a)(5)) \$2160 \$1080 \$ ☐ Applicant claims small entity status. See 37 CFR 1.27. ☐ A check in the amount of the fee is enclosed. ☐ Payment by credit card. Form PTO-2038 is attached. ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. ☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 18-1982 I have enclosed a duplicate copy of this sheet. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.						
I am the applicant/inventor. assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96). attorney or agent of record. Registration Number 39912 attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 August 26, 2005 Signature Date James W. BOLCSAK 908-231-5922 Typed or printed name Telephone Number						
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below. Total of forms are submitted.						

This collection of information is required by 37 CFR 1.135(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of COLLIS et al.

Examiner:

Art Unit:

Morris; Patricia

COLLIS et al.

Application No.: 09/871,564

1625

Filed:

05/31/2001

TELEFAX CERTIFICATE

Title:

Heteroaryl-Cyclic Acetals

I hereby certify that this correspondence is being transmitted via facsimile to the Commissioner for Patents, Alexandria, VA 22313, at 571-273-8300 on

August 26, 2005

Date of Fransitussic

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Mail Stop TC1600 Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

In response to the Restriction/Election requirement imposed by the Examiner in the above-referenced application (Office Communication mailed April 28, 2005), Applicants hereby elect Group I for further prosecution.

Group I includes, as determined by the Examiner, the subject matter of claims 1-15, drawn to compounds, classified in classes 540, 544, 546, 548 and 549, in various subclasses. Furthermore, Applicants elect for examination purposes the specie of Example 1 as requested by the Examiner. This compound is 4-[5-(5,5-dimethyl-[1,3]dioxan-2-yl)-2-(4-fluoro-phenyl)-2H-pyrazol-3-yl]-pyridine.

Upon allowance of the above-elected subject matter, the claims will be amended to reflect such election. Applicants reserve the right to pursue the remaining non-elected subject matter in one or more timely filed divisional applications.

Respectfully submitted,

James W. Bolcsak, Reg. No.: 39,912

Attorney/Agent for Applicant

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Patent Department
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Bridgewater, NJ 08807-0800
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Aventis Docket No. CA2295 USCNT